

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA, : 11-CR-576 (PKC)
: ORDER
: -against-
: KEVIN PINERO, :
: Defendants. :
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KEVIN PINERO, :
: 16-CV-4956 (PKC)
: -against-
: UNITED STATES OF AMERICA, :
: Defendants. :
-----X

P. Kevin Castel, U.S.D.J.:

Presently pending is a motion by Kevin Pinero to vacate, set aside or correct the sentence imposed upon him. 28 U.S.C. § 2255. The matter had been assigned to the late Judge Pauley and reassigned to the undersigned.

The motion raises the issue of whether conspiracy to commit murder may serve as a predicate “force” crime under 18 U.S.C. § 924(c). The outcome of the motion may turn in whole or in part on the application of United States v. Pastore, 36 F.4th 423, 430 (2d Cir. 2022), opinion withdrawn and superseded on rehearing, 83 F.4th 113 (2d Cir. 2023) and United States v. Heyward, 3 F.4th 75, 84 (2d Cir. 2021).

The Court will require the parties to respond to the defendant’s motion. The government shall respond to the motion by July 26, 2024, and the defendant shall reply by August 26, 2024.

Mr. Richard Baum of the Federal Defenders of New York represented defendant Pinero on his original guilty plea. In view of Mr. Baum's retirement, the Federal Defenders are respectfully requested to appoint a staff attorney to represent the defendant.

SO ORDERED.



P. Kevin Castel
United States District Judge

Dated: New York, New York
June 12, 2024

cc: Jennifer Brown, Esq.

Mailed to:
Kevin Pinero, Register No. 66768-054
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